

AMENDED IN ASSEMBLY MAY 26, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 964

Introduced by Assembly Member Jerome Horton
(Principal coauthor: Senator Ackerman)

February 18, 2005

An act to amend Sections 755, 756, and 1153 of, to amend, repeal, and add Sections 1152 and 1155 of, and to add Sections 100.51, 721.51, 721.52, and 828.1 to, the Revenue and Taxation Code, An act to amend Section 441 of, and to add and repeal Section 1153.5 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 964, as amended, Jerome Horton. Property taxation: state assessment: ~~commercial air carrier personal property~~. *certificated aircraft assessment.*

(1) Existing property tax law requires that the personal property of an air carrier be taxed at its fair market value. The California Constitution requires that property that is subject to ad valorem property taxation be assessed in the county in which it is situated.

This bill would require the Aircraft Advisory Subcommittee of the California Assessors' Association to designate, after soliciting input from commercial air carriers operating in the state, a lead county assessor's office for each commercial air carrier operating certificated aircraft in this state in an assessment year. This bill would require this lead county assessor to calculate the value of the air carrier's personal property and to transmit these calculations to other county assessors, but would specify that each county assessor is responsible for assessing and enrolling the taxable value of the property in his or her county, as provided. This bill would also require

the lead county assessor's office to lead a team to audit the books and records of a commercial air carrier and would authorize these air carriers to file a property statement solely with the lead county assessor's office, as provided.

By imposing these new duties upon a lead county assessor's office, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~The California Constitution requires the State Board of Equalization to assess specified properties owned by specified entities. Existing property tax law provides for the valuation of properties of a state assessee that owns property in more than one county. Existing law requires, upon a request by the board, that a state assessee submit a property statement, as provided, to the board pertaining to the property owned by the assessee. Existing law also provides, pursuant to specified formulas, for the application in each county of specified tax rates to the allocated assessed value of a state assessee's property, and for the allocation among jurisdictions in that county of the resulting revenues.~~

~~This bill would, commencing with the lien date for the 2006-07 fiscal year, require the board to assess taxable personal property that is owned by a commercial air carrier, as defined. This bill would authorize the board to audit these assessments as otherwise provided by law. This bill would also require the board to notify county assessors, as specified, if a commercial air carrier's taxable personal property includes fixtures that are to be locally assessed as real property. This bill would also require that the revenues derived from the assessment of this property be allocated in the same percentage shares as revenues derived from locally assessed property among the jurisdictions in which the property is located.~~

~~This bill also would, for the 2006-07 fiscal year and each fiscal year thereafter, establish a conclusive presumption that the full market value of certificated aircraft is its value derived using the original cost method of valuation. This bill would also authorize a county in which~~

~~a certificated aircraft is located to challenge an assessment made by the board if the board uses a valuation method other than the original cost method, as provided. This bill would also require that original cost be determined by excluding from capital additions and modifications maintenance costs that are deductible for federal income taxation purposes pursuant to a specified federal administrative ruling. This bill would also require that if the original cost of a leased aircraft is determined by reference to a specified publication, the prices in that publication with respect to that aircraft be reduced by a fleet discount, as defined, if the lessor purchased more than one aircraft in a single transaction. With respect to certain aircraft that are out of production, this bill would authorize a taxpayer and the board to mutually agree to determine the value of these aircraft as referenced in a specified publication.~~

~~Existing law establishes the State-County Property Tax Administration Grant Program which, for the 2002-03 fiscal year to the 2006-07 fiscal year, inclusive, provides grants, upon an appropriation by the Legislature in the annual Budget Act, to electing counties to assist them in funding property tax administration costs. This program sets forth a grant amount for each county in a specified schedule.~~

~~This bill would require the Department of Finance to make appropriate adjustments to the funding available to counties under this program to provide the board with revenues to administer the bill's provisions.~~

~~This bill would also make conforming changes to existing law.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 441 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 441. (a) Each person owning taxable personal property, other
- 4 than a manufactured home subject to Part 13 (commencing with
- 5 Section 5800), having an aggregate cost of one hundred thousand
- 6 dollars (\$100,000) or more for any assessment year shall file a
- 7 signed property statement with the assessor. Every person
- 8 owning personal property that does not require the filing of a
- 9 property statement or real property shall, upon request of the

1 assessor, file a signed property statement. Failure of the assessor
2 to request or secure the property statement does not render any
3 assessment invalid.

4 (b) The property statement shall be declared to be true under
5 the penalty of perjury and filed annually with the assessor
6 between the lien date and 5 p.m. on April 1. The penalty
7 provided by Section 463 applies for property statements not filed
8 by May 7. If May 7 falls on a Saturday, Sunday, or legal holiday,
9 a property statement that is mailed and postmarked on the next
10 business day shall be deemed to have been filed between the lien
11 date and 5 p.m. on May 7. If, on the dates specified in this
12 subdivision, the county's offices are closed for the entire day,
13 that day is considered a legal holiday for purposes of this section.

14 (c) The property statement may be filed with the assessor
15 through the United States mail, properly addressed with postage
16 prepaid. For purposes of determining the date upon which the
17 property statement is deemed filed with the assessor, the date of
18 postmark as affixed by the United States Postal Service, or the
19 date certified by a bona fide private courier service on the
20 envelope containing the application, shall control. This
21 subdivision shall be applicable to every taxing agency, including,
22 but not limited to, a chartered city and county, or chartered city.

23 (d) (1) At any time, as required by the assessor for assessment
24 purposes, every person shall make available for examination
25 information or records regarding his or her property or any other
26 personal property located on premises he or she owns or controls.
27 In this connection details of property acquisition transactions,
28 construction and development costs, rental income, and other
29 data relevant to the determination of an estimate of value are to
30 be considered as information essential to the proper discharge of
31 the assessor's duties.

32 (2) (A) This subdivision shall also apply to an owner-builder
33 or an owner-developer of new construction that is sold to a third
34 party, is constructed on behalf of a third party, or is constructed
35 for the purpose of selling that property to a third party.

36 (B) The owner-builder or owner-developer of new
37 construction described in subparagraph (A), shall, within 45 days
38 of receipt of a written request by the assessor for information or
39 records, provide the assessor with all information and records
40 regarding that property. The information and records provided to

1 the assessor shall include the total consideration provided either
2 by the purchaser or on behalf of the purchaser that was paid or
3 provided either, as part of or outside of the purchase agreement,
4 including, but not limited to, consideration paid or provided for
5 the purchase or acquisition of upgrades, additions, or for any
6 other additional or supplemental work performed or arranged for
7 by the owner-builder or owner-developer on behalf of the
8 purchaser.

9 (e) In the case of a corporate owner of property, the property
10 statement shall be signed either by an officer of the corporation
11 or an employee or agent who has been designated in writing by
12 the board of directors to sign the statements on behalf of the
13 corporation.

14 (f) In the case of property owned by a bank or other financial
15 institution and leased to an entity other than a bank or other
16 financial institution, the property statement shall be submitted by
17 the owner bank or other financial institution.

18 (g) The assessor may refuse to accept any property statement
19 he or she determines to be in error.

20 (h) If a taxpayer fails to provide information to the assessor
21 pursuant to subdivision (d) and introduces any requested
22 materials or information at any assessment appeals board
23 hearing, the assessor may request and shall be granted a
24 continuance for a reasonable period of time. The continuance
25 shall extend the two-year period specified in subdivision (c) of
26 Section 1604 for a period of time equal to the period of the
27 continuance.

28 (i) Notwithstanding any other provision of law, every person
29 required to file a property statement pursuant to this section shall
30 be permitted to amend that property statement until May 31 of
31 the year in which the property statement is due, for errors and
32 omissions not the result of willful intent to erroneously report.
33 The penalty authorized by Section 463 does not apply to an
34 amended statement received prior to May 31, provided the
35 original statement is not subject to penalty pursuant to
36 subdivision (b). The amended property statement shall otherwise
37 conform to the requirements of a property statement as provided
38 in this article.

39 (j) This subdivision shall apply to the oil, gas, and mineral
40 extraction industry only. Any information that is necessary to file

1 a true, correct, and complete statement shall be made available
2 by the assessor, upon request, to the taxpayer by mail or at the
3 office of the assessor by February 28. For each business day
4 beyond February 28 that the information is unavailable, the filing
5 deadline in subdivision (b) shall be extended in that county by
6 one business day, for those statements affected by the delay. In
7 no case shall the filing deadline be extended beyond June 1 or the
8 first business day thereafter.

9 (k) The assessor may accept the filing of a property statement
10 by the use of electronic media. In lieu of the signature required
11 by subdivision (a) and the declaration under penalty of perjury
12 required by subdivision (b), property statements filed using
13 electronic media shall be authenticated pursuant to methods
14 specified by the assessor and approved by the board. Electronic
15 media includes, but is not limited to, computer modem, magnetic
16 media, optical disk, and facsimile machine.

17 *(l) (1) If authorized by the Aircraft Advisory Subcommittee of*
18 *the California Assessors' Association, a commercial air carrier*
19 *whose certificated aircraft, as defined in Section 1150, is subject*
20 *to Article 6 (commencing with Section 1150) of Chapter 5 may,*
21 *in lieu of filing a property statement for its certificated aircraft in*
22 *every county in which it operates, file one signed property*
23 *statement for the aircraft types that have acquired situs in*
24 *California for property tax purposes with the lead county*
25 *assessor's office designated under Section 1153.5.*

26 *(2) Each commercial air carrier may file one schedule for all*
27 *of its certificated aircraft that have acquired situs in this state*
28 *under Section 1151.*

29 *(3) Flight data required to compute certificated aircraft*
30 *allocation under Section 1152 and subdivision (g) of Section 202*
31 *of Title 18 of the California Code of Regulations shall be*
32 *segregated by airport location.*

33 *(4) Beginning with the 2006 assessment year, a commercial*
34 *air carrier may file a statement described in this subdivision*
35 *electronically by means of the California Assessor's Standard*
36 *Data Record (SDR) network. If the SDR is not equipped to accept*
37 *electronic filings for the 2006 assessment year, an air carrier*
38 *may file a printed version of its property statement for that year*
39 *with its lead county assessor's office.*

1 (5) *This subdivision shall remain in effect only until December*
2 *31, 2011, and as of that date is repealed.*

3 SEC. 2. *Section 1153.5 is added to the Revenue and Taxation*
4 *Code, to read:*

5 1153.5. (a) *The Aircraft Advisory Subcommittee of the*
6 *California Assessors' Association shall, after soliciting input*
7 *from commercial air carriers operating in the state, do both of*
8 *the following:*

9 (1) *On or before March 1, 2006, and on or before each March*
10 *1 thereafter, designate a lead county assessor's office for each*
11 *commercial air carrier operating certificated aircraft in this*
12 *state in that assessment year.*

13 (2) *Every third year thereafter, redesignate a lead county*
14 *assessor's office for each of these air carriers, unless an air*
15 *carrier and its existing lead county assessor's office concur to*
16 *waive this redesignation.*

17 (b) *The lead county assessor's office described in subdivision*
18 *(a) shall do all of the following:*

19 (1) *Calculate an unallocated value of the certificated aircraft*
20 *of each commercial air carrier to which he or she is designated.*

21 (2) *Electronically transmit to the assessor of each county in*
22 *which the property described in paragraph (1) has situs for the*
23 *assessment year the values determined by the lead county*
24 *assessor's office under paragraph (1).*

25 (3) *Receive the property statement, as described in subdivision*
26 *(l) of Section 441, of each commercial air carrier to which he or*
27 *she is designated.*

28 (4) *Lead the audit team described in subdivision (d) when that*
29 *team is conducting an audit of a commercial air carrier to which*
30 *he or she is designated.*

31 (5) *Notify, in writing, each commercial air carrier for which*
32 *he or she has been designated of this designation on or before*
33 *the first March 15 that follows that designation.*

34 (c) (1) *Notwithstanding subdivision (b), the county assessor of*
35 *each county in which the personal property of a commercial air*
36 *carrier has situs for an assessment year is solely responsible for*
37 *assessing that property, applying the allocation formula set forth*
38 *in Section 1152, and enrolling the value of the property in that*
39 *county, but, in determining the unallocated fleet value for each*
40 *make, model, and series of certificated aircraft of a commercial*

1 *air carrier, the assessor may consult with the lead county*
2 *assessor's office designated for that commercial air carrier.*

3 *(2) The lead county assessor's office is subject to Section 322*
4 *of Title 18 of the California Code of Regulations and Sections*
5 *408, 451, and 1606 to the same extent as the assessor described*
6 *in paragraph (1).*

7 *(d) Notwithstanding Section 469, an audit of a commercial air*
8 *carrier shall be conducted once every four years on a centralized*
9 *basis by an audit team of auditor-appraisers from at least one,*
10 *but not more than three, counties, as determined by the Aircraft*
11 *Advisory Subcommittee of the California Assessors' Association.*
12 *An audit so conducted shall encompass all of the California*
13 *Personal Property and fixtures of the air carrier and is deemed*
14 *to be made on behalf of each county for which an audit would*
15 *otherwise be required under Section 469.*

16 *(e) This section shall remain in effect only until December 31,*
17 *2011, and as of that date is repealed.*

18 *SEC. 3. If the Commission on State Mandates determines that*
19 *this act contains costs mandated by the state, reimbursement to*
20 *local agencies and school districts for those costs shall be made*
21 *pursuant to Part 7 (commencing with Section 17500) of Division*
22 *4 of Title 2 of the Government Code.*

23 ~~SECTION 1. Section 100.51 is added to the Revenue and~~
24 ~~Taxation Code, to read:~~

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26
27 **All matter omitted in this version of the bill**
28 **appears in the bill as introduced in the**
29 **Assembly, February 18, 2005. (JR11)**
30